

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Malgorzata Szayna	:	
-vs-	:	
Commonwealth Edison Company	:	15-0360
	:	
Complaint as to low lines over parking lot,	:	
incorrect billing in Joliet, Illinois.	:	

PROPOSED ORDER

By the Commission:

I. Procedural History

On May 18, 2015, Malgorzata Szayna (“Complainant” or “Ms. Szayna”) filed a verified two-count Complaint against Commonwealth Edison Company (“ComEd” or “Respondent”) alleging low lines over a parking lot and incorrect billing in Joliet, Illinois.

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, a prehearing conference was held before duly-authorized Administrative Law Judges (“ALJs”) of the Illinois Commerce Commission (“Commission”) on June 16, 2015 at the offices of the Commission in Chicago, Illinois.

The evidentiary hearing was held on January 14, 2016. At the evidentiary hearing, Complainant testified in support of her Complaint. Mr. Michael S. Mann, Manager of Construction and Maintenance, and Ms. Alexis Bullard, Senior Business Analyst, testified on behalf of Respondent. Both parties were represented by counsel.

II. Complainant Position

Ms. Szayna’s Complaint alleges in Count I that in 2013 she became concerned about high electric bills and requested that ComEd inspect her meter. She claims that ComEd disconnected her service in May of 2014 despite a payment of \$1100. She states that in June of 2015 she re-established service. Despite electric service being turned off and the meter not spinning, Ms. Szayna claims she received monthly bills showing usage consistent with previous months. Complaint at 1.

At the evidentiary hearing, Ms. Szayna testified that in May of 2014, ComEd cut off her service due to nonpayment. Service was restored in January of 2015. Tr. at 134-135. That service was to the common areas of the building, not the tenants’ individual units. During the period when there was no service, Ms. Szayna testified that she was still receiving bills from ComEd in the amount of \$553. Complainant Ex. 2. Ms. Szayna testified that she paid the bill and is seeking a refund for that amount. She stated that she saw that the meter was locked and not spinning during that time period, and she also

questioned the amount of the bill because she only has a few bulbs and two heaters for this common area of the building. Tr. at 138-149.

In Count II, Ms. Szayna alleges that there are power lines running from an 800-amp service connection on her property which an independent consultant told her are too low and pose a safety hazard. Ms. Szayna stated that children were swinging on the lines. She stated that ComEd claims responsibility for the power lines. Ms. Szayna testified that a ComEd representative came to her property and that the ComEd representative stated that the contractor improperly attached the power lines. Ms. Szayna claimed her insurance inspector has stated the installation is unsafe and against code, and she can no longer get ComEd to respond to her calls. Complaint at 2-3.

Ms. Szayna testified that she has owned the building that is the subject of the Complaint since 2002. In 2010, Ms. Szayna contacted ComEd regarding the electric heat in the building, and the Respondent connected an 800-amp service connection. Ms. Szayna hired a private contractor to install the electric connection. Tr. at 121-123. Ms. Szayna testified that during the installation process, there was an inspection by the City of Joliet and by ComEd. Ms. Szayna testified that ComEd told her that the installation was done incorrectly as to its height, and that the point of attachment was also incorrect. According to Ms. Szayna, ComEd recently told her to disconnect the service to stop the safety hazard, or to install a wooden bar along the porches so that the wires would not be accessible by the tenants. Ms. Szayna states that for five years, ComEd supplied electricity to her building despite Respondent's claim that it was incorrectly installed. Tr. at 133.

III. Respondent Position

ComEd witness Mr. Michael Mann testified that in 2010 he was a manager of construction and maintenance in Joliet, Illinois for ComEd. Mr. Mann visited the premises twice in one day in the week prior to the evidentiary hearing. Mr. Mann testified that when ComEd connects service to a building, it does not conduct inspections of customer-owned facilities. ComEd instead relies on the municipality to let the utility know that it has approved the construction, and the utility can then connect and supply power. Additionally, Mr. Mann stated that ComEd deals with over 400 municipalities and each has its own code and criteria for building. Tr. at 162-166.

Mr. Mann examined Complainant's Exhibit 1, a photograph of Complainant's property, specifically the 800-amp service connection. He testified that the overhead line belongs to ComEd up to the attachment point and it complies with ComEd's standards. Complainant Ex. 1. Mr. Mann testified that the power line to the far right in Complainant Exhibit 1 belongs to ComEd. He stated that the photograph shows three other lines that connect to the attachment point, but he does not know to whom those belong. The attachment point is a horizontal bar with brackets that attach to the sides of the building. The horizontal bar and the brackets are customer-owned. Tr. at 168-169. Mr. Mann testified that when safety concerns are raised, there is generally a field review by ComEd. When Mr. Mann examined the building, he saw no safety concerns related to ComEd's equipment. Mr. Mann testified that the height of the ComEd wire was consistent with ComEd's guidelines. Tr. at 183. Specifically, Mr. Mann testified that the ComEd portion of the connection was at least 11 feet off the ground and possibly even higher. He stated

that the customer's portion of the connection would have to be higher than 11 feet. Mr. Mann testified that ComEd's guidelines for such installations require certain distances away from porches, windows and doors. The guidelines can vary between 2 and 3 feet depending on the voltage of the connection. The voltage can also dictate that the wires be insulated. In the case of the connection at Complainant's property, the wires are insulated, which can reduce the height and distance requirements of the wires. Tr. 183-186. In response to Ms. Szayna's claims that children were swinging on the lines, Mr. Mann stated that in his opinion, a lattice or wood board across the alleyway would prevent access to the wiring. Tr. at 171-172.

ComEd witness Ms. Alexis Bullard testified that the current balance on the account is \$1,220. ComEd Exhibit 2 describes the account activity between July 31, 2014 and January 5, 2016. The column entitled "Transferred Debits" includes the amount owed on any account owned by the customer previously, which transfer immediately to the new account. ComEd Ex. 2. ComEd Exhibit 3 is the account activity statement from December 31, 2012 through October 13, 2014. In May of 2014 there was a reconnect fee, because the service was interrupted for nonpayment. Ms. Bullard testified that ComEd Exhibit 3 indicated that the account finalized October 13, 2014. This means that if the customer is cut for nonpayment, and if they do not make a payment within 30 days, the system will automatically final the account and the customer has to call to reestablish service. When the customer opens a new account, the outstanding balance will automatically transfer to the new account. Tr. at 190-92.

According to ComEd Exhibit 4, the two year period between January 2014 and 2016 shows a meter reader physically went to the property and read the meter. Ms. Bullard testified that the usage readings on September 11, 2014 are the same as those on October 14, 2014, indicating that there was zero usage during that period. Ms. Bullard testified that, even if a customer has no usage, bills will be sent to the customer if there is any outstanding balance on the account. Ms. Bullard testified that ComEd Exhibit 4 indicates that there is a jump or spike in usage, which would be attributed to electric heat if space heaters are being used. That spike drops in the summer months, consistent with less heat being used. Tr. at 198-201.

IV. Commission Analysis and Conclusion

The Commission has jurisdiction over Respondent and the subject matter of the Complaint. Complainant is the owner of an apartment complex in Joliet, Illinois and a customer of ComEd. Respondent is engaged in providing electric service in the State of Illinois and is a public utility under Section 3-105 of the Public Utilities Act. 220 ILCS 5/3-105.

ComEd disconnected Ms. Szayna's meter due to nonpayment pursuant to Section 280.130(b)(1) of the Commission's Rules. 83 Ill. Adm. Code 280.130(a)(1)(B).¹ ComEd Exhibit 4 shows that on May 12, 2014, Ms. Szayna's meter was disconnected due to nonpayment. ComEd Ex. 4. ComEd Exhibit 3 shows that Ms. Szayna made a payment

¹ Part 280 of the Commission's Rules was modified in 2014. Though the subject matter of the Complaint spans 2010-2015, both before and after the amendments to Part 280, 83 Ill. Adm. Code 280.130(a)(1)(B) did not change.

of \$384.16 on May 15, 2014 and service was restored. ComEd Exhibit 4 also shows that Ms. Szayna's service was disconnected on October 13, 2014. Between mid-September 2014 and January 8, 2015, Ms. Szayna had no usage. On January 13, 2015, Ms. Szayna paid \$116.32 to reconnect service again. Despite the fact that Ms. Szayna's meter was shut off during portions of 2014 for nonpayment, Ms. Szayna still owes the past due amounts from her bills. ComEd Ex. 3. The record shows that Ms. Szayna was accurately billed for her usage. Ms. Szayna was not billed for usage when her service was disconnected, but rather for usage prior to disconnection.

As to the 800-amp service connection, ComEd testified that its power line connecting to the service connection is properly connected to the point of attachment. ComEd witness Mr. Mann testified that ComEd does not own or bear responsibility for any of the items beyond the wire. He testified that the point of attachment is customer-owned. Tr. at 168; Complainant Ex. 1. Ms. Szayna has not presented any evidence that ComEd's installation was faulty. The Commission has no jurisdiction over the City of Joliet nor any contractor who may or may not have properly installed the service connection in 2010 at the property owned by Ms. Szayna. The Commission finds that ComEd's installation at the connection site is proper.

It is unclear to the Commission whether the electric installation owned by Ms. Szayna is unsafe. Other than Ms. Szayna's testimony, no expert has been presented by the Complainant that can substantiate whether the service connection is improperly installed, and such determination exceeds the Commission's jurisdiction. With regard to Ms. Szayna's safety concerns, installing the lattice or wood planking on the porch, as suggested by Mr. Mann, may be an easy and inexpensive solution for the Complainant.

V. Findings and Ordering Paragraphs

The Commission, having considered the entire record herein and being fully advised in the premises thereof, finds that:

- (1) Respondent, Commonwealth Edison Company, is engaged in providing electric service in the State of Illinois and, as such, is a public utility within the meaning of the Illinois Public Utilities Act;
- (2) Complainant, Malgorzata Szayna, alleges that ComEd improperly billed her for electric service between March and August, 2014 and improperly connected an 800 amp service to her property in 2010;
- (3) the Commission has jurisdiction over the parties and the subject matter herein;
- (4) the findings of fact and the conclusions of law set forth in the prefatory portion of this Order conform to the evidence of record and the law and are hereby adopted as findings of fact and law herein;
- (5) Respondent has shown that Complainant was accurately billed based on the evidence described above;
- (6) Respondent has shown that ComEd's installation of the its power line was done properly and pursuant to ComEd's guidelines;
- (7) Complainant owes \$1200, minus late payment charges; and

(8) based on Findings (5) and (6), the subject Complaint should be denied.

IT IS THEREFORE ORDERED that the Complaint filed by Malgorzata Szayna on May 18, 2015 against Commonwealth Edison Company be denied as described herein.

IT IS FURTHER ORDERED that any objections, motions or petitions not previously disposed of are hereby disposed of consistent with the findings of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED:
BRIEFS ON EXCEPTION DUE:
REPLIES ON EXCEPTION DUE:

April 5, 2016
April 19, 2016
April 26, 2016

Leslie D. Haynes
Jessica L. Cardoni
Administrative Law Judges